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Joseph Patrick Denisson

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Attn: Patent Docketing

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EXAMINER

RAMPURIA, SHARAD K

ART UNIT

PAPER NUMBER

2617

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/732,784	<b>Applicant(s)</b> DENNISSON ET AL.	
	<b>Examiner</b> SHARAD RAMPURIA	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-10,12-17,19-21,23-28 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-10,12-17,19-21,23-28 and 30-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 23-28, 30-32 are rejected under 35 U.S.C. 101, because of non-statutory as describe following:

Regarding claims 23-28, 30-32, it is clearly calls for “a computer program product” comprising “code means”.....

As best can be support by the specification (¶ 0032), “a software product and also a signal” is actually “a software/computer program and also a signal” which does not fall within any of the enumerated statutory categories because it is an Abstract Idea, *and the invention as claimed does not produce a useful, concrete, and tangible result*. Therefore, claims 23-28, 30-32 is nonstatutory. (Please see MPEP 2106.01 [R-6]).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3, 6, 10, 12-14, 17, 21, 23-25, 28 & 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Curcio** et al. [US 20040057420] in view of **Hardacker, Robert L.** [US 20020115454 A1].

As per Claim 1, **Curcio** discloses:

A method of operating a communication network (Abstract), comprising:

Providing a wireless communication network that has bandwidth associated therewith to facilitate communication; (i.e. transmission bit rate; Pg.2; 0025-0029 and Pg.4; 0061) and

Transmitting streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network. (i.e. performing according to bandwidth; Pg.2; 0030, Pg.4; 0077-0078 and Claim 1)

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**Curcio** fails to teaches all the particulars of the claim except bi-directional communication between at least one mobile terminal and another mobile terminal; obtaining authorization from a media broadcaster that provides streaming media to rebroadcast the streaming media over the wireless network, the streaming media comprising audio and/or video content. However, **Hardacker** teaches in an analogous art, that bi-directional communication between at least one mobile terminal and another mobile terminal; obtaining authorization from a media broadcaster that provides streaming media to rebroadcast the streaming media over the wireless network, the streaming media comprising audio and/or video content. (¶ 0017, 0019, 0024) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to including bi-directional communication between at least one mobile terminal and another mobile terminal; obtaining authorization from a media broadcaster that provides streaming media to rebroadcast the streaming media over the wireless network, the streaming media comprising audio and/or video content in order to distributing event information to attendees at the event and, more particularly, to distributing audio and video information.

As per Claim 2, Curcio disclose:

The method of claim 1, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using third generation (3G) wireless communication technology. (i.e 3<sup>rd</sup> generation; Pg.4; 0060)

As per Claim 3, Curcio disclose:

The method of claim 2, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using wideband code division multiple access (WCDMA) technology, universal mobile telecommunications system (UMTS) technology, and/or enhanced data GSM (global system for mobile communications) environment technology. (i.e. UMTS; Pg.5; 0101 and Pg.7; 0145)

As per Claim 6, Curcio disclose:

The method of claim 1, wherein the streaming media comprises text. (i.e.; Pg.7; 0146)

As per Claim 10, Curcio disclose:

The method of claim 1, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network while moving the at least one mobile terminal between cells associated with the wireless network. (i.e. roaming between two networks; Pg.7; 0152)

**Claims 12, 23** are the **system, computer program** claims, corresponding to **method** claim 1 respectively, and rejected under the same rationale set forth in connection with the rejection of claim 1 respectively, above.

As per Claim 13, Curcio disclose:

The system of claim 12, wherein the means for transmitting the streaming media comprises: means for transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using third generation (3G) wireless communication technology. (i.e 3<sup>rd</sup> generation; Pg.4; 0060)

As per Claim 14, Curcio disclose:

The system of claim 13, wherein the means for transmitting the streaming media comprises: means for transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using wideband code division multiple access (WCDMA) technology, universal mobile telecommunications system (UMTS) technology, and/or enhanced data GSM (global system for mobile communications) environment technology. (i.e. UMTS; Pg.5; 0101 and Pg.7; 0145)

As per Claim 17, Curcio disclose:

The system of claim 12, wherein the streaming media comprises text content. (i.e.; Pg.7; 0146)

As per Claim 21, Curcio disclose:

The system of claim 12, wherein the means for transmitting the streaming media comprises: means for transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network while moving the at least one mobile terminal between cells associated with the wireless network. (i.e. roaming between two

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networks; Pg.7; 0152)

As per Claim 24, Curcio disclose:

The computer program product of claim 23, wherein the computer readable program code configured to transmit the streaming media comprises: computer readable program code configured to transmit the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using third generation (3G) wireless communication technology. (i.e 3<sup>rd</sup> generation; Pg.4; 0060)

As per Claim 25, Curcio disclose:

The computer program product of claim 24, wherein the computer readable program code configured to transmit the streaming media comprises: computer readable program code configured to transmit the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using wideband code division multiple access (WCDMA) technology, universal mobile telecommunications system (UMTS) technology, and/or enhanced data GSM (global system for mobile communications) environment technology. (i.e. UMTS; Pg.5; 0101 and Pg.7; 0145)

As per Claim 28, Curcio disclose:

The computer program product of claim 23, wherein the streaming media comprises text. (i.e.; Pg.7; 0146)



As per Claim 32, Curcio disclose:

The computer program product of claim 23, wherein the computer readable program code configured to transmit the streaming media comprises: computer readable program code configured to transmit the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network while moving the at least one mobile terminal between cells associated with the wireless network. (i.e. roaming between two networks; Pg.7; 0152)

Claims 4-5, 8-9, 15-16, 19-20, 26-27 & 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curcio and Hardacker further in view of Inselberg [US 20040171381].

As per claim 4, the above combination teaches all the particulars of the claim except a Wi-Fi communication network. However, Inselberg teaches in an analogous art, that the method of claim 1, wherein the wireless communication network comprises a Wi-Fi communication network. (i.e. Wi-Fi; Pg.5; 0035) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a Wi-Fi communication network in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 5, the above combination teaches all the particulars of the claim except a IEEE 802.11b technology. However, Inselberg teaches in an analogous art, that the method of claim 4, wherein transmitting the streaming media comprises: transmitting the streaming media

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to the at least one mobile terminal using the bandwidth associated with the wireless network and using IEEE 802.11b technology. (i.e. IEEE 802.11; Pg.5; 0035)

As per claim 8, the above combination teaches all the particulars of the claim except AM, FM radio broadcast. However, Inselberg teaches in an analogous art, that the method of claim 1, wherein the streaming media comprises content from a television broadcast, an amplitude modulation (AM) radio broadcast and/or a frequency modulation (FM) radio broadcast. (i.e. AM, FM; Pg.3; 0026)

As per claim 9, the above combination teaches all the particulars of the claim except a video conference and/or a gaming application. However, Inselberg teaches in an analogous art, that the method of claim 1, wherein the streaming media comprises content from a video conference and/or a gaming application. (i.e. live events; Pg.3; 0026)

As per claim 15, the above combination teaches all the particulars of the claim except a Wi-Fi communication network. However, Inselberg teaches in an analogous art, that the method of claim 12, wherein the wireless communication network comprises a Wi-Fi communication network. (i.e. Wi-Fi; Pg.5; 0035)

As per claim 16, the above combination teaches all the particulars of the claim except a IEEE 802.11b technology. However, Inselberg teaches in an analogous art, that the method of

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claim 15, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using IEEE 802.11b technology. (i.e. IEEE 802.11; Pg.5; 0035)

As per claim 19, the above combination teaches all the particulars of the claim except AM, FM radio broadcast. However, Inselberg teaches in an analogous art, that the method of claim 12, wherein the streaming media comprises content from a television broadcast, an amplitude modulation (AM) radio broadcast and/or a frequency modulation (FM) radio broadcast. (i.e. AM, FM; Pg.3; 0026)

As per claim 20, the above combination teaches all the particulars of the claim except a video conference and/or a gaming application. However, Inselberg teaches in an analogous art, that the method of claim 12, wherein the streaming media comprises content from a video conference and/or a gaming application. (i.e. live events; Pg.3; 0026)

As per claim 26, the above combination teaches all the particulars of the claim except a Wi-Fi communication network. However, Inselberg teaches in an analogous art, that the method of claim 23, wherein the wireless communication network comprises a Wi-Fi communication network. (i.e. Wi-Fi; Pg.5; 0035)

As per claim 27, the above combination teaches all the particulars of the claim except a IEEE 802.11b technology. However, Inselberg teaches in an analogous art, that the method of

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claim 26, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using IEEE 802.11b technology. (i.e. IEEE 802.11; Pg.5; 0035)

As per claim 30, the above combination teaches all the particulars of the claim except AM, FM radio broadcast. However, Inselberg teaches in an analogous art, that the method of claim 23, wherein the streaming media comprises content from a television broadcast, an amplitude modulation (AM) radio broadcast and/or a frequency modulation (FM) radio broadcast. (i.e. AM, FM; Pg.3; 0026)

As per claim 31, the above combination teaches all the particulars of the claim except a video conference and/or a gaming application. However, Inselberg teaches in an analogous art, that the method of claim 23, wherein the streaming media comprises content from a video conference and/or a gaming application. (i.e. live events; Pg.3; 0026)

### ***Response to Amendments & Remarks***

Applicant's arguments with respect to claims 1-6, 8-10, 12-17, 19-21, 23-28, 30-32 has been fully considered but is moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000 or

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/Sharad Rampuria/  
Primary Examiner  
Art Unit 2617